HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No:22268 OF 2007

Dated: 29.10.2007

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Between:

1. The General Manager,
South Central Railway,
Rail Nilayam, Secunderabad and others.

..**Petitioners**

And

C. Sudhakar ..**Respondent**

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HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No:22268 OF 2007

ORDER: (per Hon'ble Smt. Justice T. Meena Kumari)

The present writ petition is filed by the petitioners-authorities aggrieved by an order, dated 28.8.2007 passed by the Central Administrative Tribunal in O.A.No.429 of 2007.

The respondent herein is the applicant before the Tribunal. He filed the above O.A., seeking to direct respondents 3 & 4 to implement the order passed by the 2nd respondent through his letter No.P/C/535/E&RS/Vol.XII, dated 1.8.2006 i.e, to relieve the applicant without waiting for a reliever within 15 days and allow the applicant to join in Secunderabad division from Nanded Division as E&RS (Enquiry & Reservation Supervisor) immediately, on the ground that on his representation, the 2nd respondent has transferred him from Nanded Division to Secunderabad Division through impugned letter with a direction that the employees transferred under the said orders should be relieved within 15 days without waiting for relief etc., and the Controlling Officer is accountable for non-relieving of the employees in terms of Board's instructions, except, if the employee refuses promotions and gives it in writing before relief, but in spite of such orders, the respondents-authorities have not so far relieved the applicant.

The tribunal having observed that the transfer order has been issued as long back as on 1.8.2006 with a specific direction to relieve the applicant within 15 days and the respondents neither relieved the applicant nor made any representation to the headquarters to revise

the said orders and as the said order is in force, the respondents cannot refuse to relieve the applicant, allowed the O.A. and directed the respondents to relieve the applicant within one month from the date of receipt of the order. Having aggrieved by the same, the present writ petition has been filed.

Heard the learned Standing Counsel for Railways and the learned Counsel appearing for the 1st respondent-applicant.

It is the contention of the learned Standing Counsel that the post of Enquiry & Reservation Supervisor could not be kept vacant without any substitute in the interest of public and therefore, the relief of the respondent-applicant would affect the administration of the travelling public and therefore, the tribunal is not justified in granting time to relieve the applicant, in the absence of any substitute.

On a perusal of the order impugned and the material available on record, it is an undisputed fact that the transfer orders were issued way back on 1.8.2006 with a specific direction to relieve the applicant within 15 days without waiting for reliever. The contention of the authorities is that the relief of respondent-applicant would affect administration of the travelling public and the respondent-applicant cannot be relieved without any substitute and they have no objection to relieve the respondent-applicant, if the substitute is available.

In the facts and circumstances of the case and in the interest of the travelling public, We make it clear that the department should ensure to post an individual within six months from the date of receipt of copy of the order so as to enable the respondent-applicant to join in

Secunderabad Division. However, it is made clear that in case no substitute is available, it is needless to observe that the respondent-applicant shall wait till he is relieved by a substitute.

Subject to the above observation, the writ petition is disposed of. No order as to costs.

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Justice T. Meena Kumari

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Justice G. Chandraiah

Date: 29th October, 2007
Nn/Gurc.

HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No:22268 OF 2007

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

29.10.2007

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